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December 7, 2023

Via ECF

Hon. P. Kevin Castel
U.S. District Court, Southern District of New York
500 Pearl St.
New York, NY 10007

Re: Sphere 3D Corp. v. Gryphon Digital Mining, Inc., 1:23-cv-02954-PKC

Dear Judge Castel:

We represent Defendant Gryphon Digital Mining, Inc. ("Gryphon") in the above-captioned matter and we write with the consent of counsel for Plaintiff Sphere 3D, Inc. ("Sphere"). There are no conferences presently scheduled before the Court. For the reasons set forth below, we do not believe a pre-motion conference is required unless the Court feels a conference would be beneficial.

Gryphon will file its Third Amended Counterclaims in accordance with the Court's order earlier today on or before December 14. We write to advise the Court that Sphere intends to move to dismiss the amended counterclaims and the parties propose the following briefing schedule:

- Sphere Motion to Dismiss Gryphon's Third Amended Counterclaims: January 5, 2024
- Gryphon Opposition: February 2, 2024
- Sphere Reply: February 23, 2024

Respectfully submitted,

/s/ Dennis H. Tracey, III
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Attorneys for Defendant
Gryphon Digital Mining, Inc.

Enclosure

cc: All Counsel of Record (via ECF)

Sphere should file a pre-motion letter addressed to the T. and A. needed Counterclaims within 7 days of filing of the TAC.
SO ORDERED
[Signature]
U.S.D.S.
12-11-23